

Superior Court Standing Order 3-20

Protocol Governing Superior Court Proceedings During the Coronavirus (COVID-19) Pandemic

Applicable to All Courts

In light of emerging developments concerning the Coronavirus (COVID-19) pandemic, and as directed by the Supreme Judicial Court in its order dated March 17, 2020 (SJC Order–2), supplementing its order dated March 13, 2020 (SJC Order–1), the Superior Court will remain open for in-person proceedings solely to address emergency matters that cannot be resolved through a videoconference or telephonic hearing, either because such a hearing is not practicable or because it would be inconsistent with the protection of constitutional rights. The following protocol governs those matters, as well as other time-sensitive matters, for which a videoconference or telephonic hearing shall be held, unless otherwise provided in this standing order or unless otherwise ordered by a judge after consultation with the Clerk, the parties, Security, and Probation if applicable. In addition, this protocol addresses trials and other logistical matters.

This protocol is in effect for the time periods noted below. This standing order supersedes Standing Order 2-20, dated March 13, 2020, which is hereby rescinded.

I. Emergency matters, for which the Court will remain open for in-person appearances:

- A. The Superior Court shall remain open solely to address the following emergency proceedings:
 - 1. proceedings under G. L. c. 112, § 12S (“Mary Moe” petitions)
 - 2. any other matter which a judge, after consultation with the Clerk, the parties, Security, and Probation if applicable, determines requires an in-person proceeding because it cannot be resolved through a videoconference or telephonic hearing, either because such a hearing is not practicable or because it would be inconsistent with the protection of constitutional rights
 - 3. the Administrative Office of the Superior Court will remain open for accepting returns of wiretap warrants.
- B. Clerks’ offices shall remain open for purposes of accepting only the following:
 - 1. pleadings and other documents in emergency matters
 - 2. the following applications made in response to the automatic postponement of trials and evidentiary hearings pursuant to the SJC Orders
 - i. motions seeking exceptions to automatic postponements
 - ii. requests by the parties for conferences with the court, concerning an automatic postponement
 - iii. motions for reconsideration of bail or conditions of release
- C. The following persons are allowed to appear in court in person for emergency matters:
 - 1. attorneys
 - 2. parties
 - 3. witnesses

4. other necessary persons, as determined by the judge
5. no more than three members of the "news media," as defined in Supreme Judicial Court Rule 1:19(2)

D. For emergency matters, the following essential personnel will be assigned:

1. a judge, assigned by the Regional Administrative Justice
2. a Clerk or an assistant clerk assigned by the Clerk
3. a court officer, assigned by the Chief Court Officer or designee
4. a probation officer or associate probation officer, if necessary

E. Anyone seeking to arrange an in-court hearing should call the relevant Clerk's office, see number provided in the addendum.

F. These procedures governing emergency matters are in effect until April 6, 2020, or until such later date as may be ordered.

II. Time-sensitive matters, for which a videoconference or telephonic hearing shall be held, unless otherwise provided here or ordered by the Court:

A. The following time-sensitive Superior Court matters presumptively shall be held by videoconference or telephonically, subject to additional provisions made here, or unless a judge, after consultation with the Clerk, the parties, Security, and Probation (if necessary), finds that the matter cannot be resolved through a videoconference or telephonic hearing, either because such a hearing is not practicable or because it would be inconsistent with the protection of constitutional rights.

1. Bail reviews
2. Bail determinations following arrest or surrender pursuant to a warrant
3. Wiretap warrants
4. Dangerousness hearings under G. L. c. 276, § 58A
 - i. Any order of detention under § 58A after a hearing by videoconference or telephone shall be without prejudice to the defendant's right to an in-person hearing to be held when the current health emergency is over
5. Probable cause hearings for sexual dangerousness under G. L. c. 123A, § 12
 - i. Any finding of probable cause made after a hearing by videoconference or telephone shall be without prejudice to the respondent's right to an in-person hearing to be held when the current health emergency is over
6. Hearings on returns in matters under G. L. c. 209A or G. L. 258E
 - i. Following any ex parte order, the ten-day hearing shall be conducted by telephone, subject to further hearing in person when the current health emergency is over
7. Actions concerning compelled isolation or quarantine
8. Requests for temporary restraining orders

III. Trials, hearings, and other matters concerning logistics of court operations

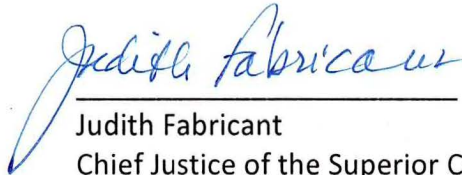
A. As provided in SJC Order-2, all trials, civil and criminal, whether jury or bench, scheduled to commence between March 17, 2020 and April 17, 2020, shall be postponed until a date no earlier than April 21, 2020, unless the trial concerns a civil matter and can be conducted

otherwise than in person by agreement of the parties and of the court. In each postponed case, the court shall conduct a conference for the purpose of setting a rescheduled trial date and addressing other matters as may be necessary. Such conferences may be conducted by videoconference or telephone where feasible, and may be conducted by the session judge, by the Regional Administrative Justice (RAJ) or designee, or by the clerk or assistant clerk with the approval of the session judge or RAJ. Persons in custody shall not be transported for such conferences. Pursuant to paragraph 7 of SJC Order–2, time periods of continuances occasioned by that Order shall be excluded from speedy trial computations under Mass. R. Crim. P. 36.

- B. Upon a showing of exceptional circumstances, a party whose trial or evidentiary hearing is postponed by SJC Order–2 may seek an exception by motion filed in this Court. No exception shall be granted except with the approval of the judge and the Chief Justice of the Superior Court. Where a party seeks a jury trial, no exception shall be granted without consultation with the jury commissioner.
- C. In accord with paragraph 5 of SJC Order–2, where a jury trial has commenced before March 18, 2020, a mistrial shall be declared based on the manifest necessity arising from the pandemic.
- D. In accord with paragraph 8 of SJC Order–2, a criminal defendant whose trial is postponed as a result of the Order may seek reconsideration of bail or conditions of release. Hearings on such requests may be conducted by videoconference or telephone where feasible. Persons in custody shall not be transported for such hearings.
- E. For any time-sensitive matter that the Court determines cannot be resolved through a videoconference or telephonic hearing, either because such a hearing is not practicable or because it would be inconsistent with the protection of constitutional rights, attendance in court shall be limited to attorneys, parties, witnesses, and any other necessary persons as determined by the judge, plus no more than three members of the “news media” as defined in Supreme Judicial Court Rule 1:19(2).
- F. As provided in paragraph 6 of SJC Order–1, no new grand jury shall be impaneled before April 21, 2020, and all presently sitting grand juries shall be extended through that date. The prosecutor may call in a sitting grand jury only with the approval of the RAJ.
- G. As provided in paragraph 9 of SJC Order–2, all statutes of limitations are tolled from March 17, 2020 through April 21, 2020. Unless otherwise ordered by a judge in a specific case, all deadlines set forth in statutes or court rules, standing orders, or guidelines that would otherwise expire before April 21, 2020, are extended to that date.
- H. All orders issued before March 17, 2020 after an adversarial hearing, or the opportunity for one, that are due to expire before April 21, 2020, shall remain in effect until the matter is rescheduled and heard.

- I. Each RAJ shall advise Deputy Court Administrator (DCA) Elaina Quinn regarding any deficiency in equipment necessary to conduct proceedings by video or telephone. DCA Quinn shall work with the appropriate personnel in the Office of Court Management to address any such deficiency as promptly as possible.
- J. The Administrative Office of the Superior Court (AOSC) shall remain open with skeleton staff. AOSC staff shall follow the policies and guidance provided by the Department of Human Resources in the Office of Court Management.
- K. Clerks' office personnel shall follow the policies and guidance provided by the Department of Human Resources in the Office of Court Management. If illness or exposure to the virus of personnel in any Clerk's office necessitates closure, the Clerk and AOSC will consult with other clerks to arrange assistance for the affected office.

So Ordered,



Judith Fabricant
Chief Justice of the Superior Court

Adopted: March 17, 2020

Effective: March 17, 2020

Addendum to Superior Court Standing Order 3-20

Barnstable County Superior Court	(508) 375-6684	
Berkshire County Superior Court	(413) 442-9190	
Bristol County Superior Court	(508) 491-3300	Fall River
	(508) 996-2051	New Bedford
	(508) 823-6588	Taunton
Dukes County Superior Court	(508) 627-4668	
Essex County Superior Court	(978) 825-4800	Salem
	(978) 242-1900	Lawrence
	(978) 462-4474	Newburyport
Franklin County Superior Court	(413) 775-7400	
Hampden County Superior Court	(413) 735-6016	
Hampshire County Superior Court	(413) 584-5810	
Middlesex County Superior Court	(781) 939-2700	Woburn
	(978) 656-7800	Lowell
Nantucket County Superior Court	(508) 228-2559	

Norfolk County Superior Court (781) 326-1600

Plymouth County Superior Court (508) 747-8400

Plymouth

(508) 583-8250

Brockton

Suffolk Civil Superior Court (617) 788-8175

Suffolk Criminal Superior Court (617) 788-8160

Worcester County Superior Court (508) 831-2000